

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

25421

FILE: B-209429.2

DATE: June 9, 1983

MATTER OF: Canyon Logging Company--Reconsideration

DIGEST:

Where request for reconsideration fails to demonstrate any error of fact or law, prior decision is affirmed.

Canyon Logging Company requests reconsideration of our decision in Canyon Logging Company, B-209429, April 1, 1983, 83-1 CPD 343, denying its protest against the Forest Service's acceptance of a bid from Cofer & Beck Logging Company. The challenged bid was for the Ninko-Miller Lake Timber Sale on the Glacier View Ranger District of Flathead National Forest.

We affirm our prior decision.

The Ninko-Miller sale was advertised on August 8, 1982. The advertisement clearly stated that bids would be received at the Forest Supervisor's office in Kalispell, Montana. The advertisement also noted that information concerning bid submission could be obtained at the Ranger's Office in Columbia Falls, Montana. The bid opening was scheduled for Monday, September 13, at 11:00 a.m.

On Friday, September 10, a bid from Cofer & Beck was hand-carried to the Ranger's Office in Columbia Falls. Rather than referring the bidder to the Kalispell office 30 miles away, a clerk in the Ranger's Office accepted the bid, time-stamped it, initialed it, and placed the clearly marked bid envelope inside a Forest Service internal mail envelope and an internal routing envelope which was addressed to the bid custodian in Kalispell. When the Cofer & Beck bid was discovered about 1 hour and 30 minutes after bid opening, it was opened and acknowledged as the high bid.

025854

Canyon Logging, the second highest bidder, protested the acceptance of the late bid. Furthermore, Canyon Logging complained that Cofer & Beck's bid was nonresponsive because it contained an improperly completed form FS2400-43 regarding the bidder's performance of earlier Government logging contracts. We denied the protest.

On reconsideration, the protester must produce "a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not considered." 4 C.F.R. § 21.9(a) (1983).

Canyon Logging contends that we erred in stating that the Cofer & Beck bid arrived in the mailroom at about 9:30 a.m. on Monday, September 13, when the statement of a Forest Service employee showed that the bid was received after the 11:00 a.m. bid opening date. Contrary to this position, the employee's statement shows only that the mail clerk delivered the earlier received mail after 11:00 a.m. As the Forest Service points out, the only reason Cofer & Beck's bid was not distributed before 11:00 a.m. was because it had not been identified as a bid since it was within Forest Service internal routing envelopes.

Next, Canyon Logging disputes our finding that the primary fault for the late delivery rests with the Government. The protester contends that Cofer & Beck's delivery of the bid to the wrong facility was the primary cause. We previously considered this argument and no new arguments have been advanced which require us to change our conclusion.

Likewise, Canyon Logging has not advanced any arguments not previously considered which require reversal of our conclusion that it was the duty of the District Ranger's Office to see that the bid was brought to the attention of the appropriate official prior to bid opening.

Canyon Logging's disagreement with our conclusion concerning completion of form FS2400-43 is based on the fact that Steve Cofer had signed a contract last year and, therefore, Cofer & Beck had to complete the form. Our agreement with the Forest Service's position that marking the form "N/A" was appropriate was based on the fact that Steve Cofer signed the previous contract for a company other than Cofer & Beck and Dennis Beck was not affiliated with

that company. Since the two companies appear to be separate entities, we see no error in our conclusion.

Since no errors of fact or law have been shown, our prior decision is affirmed.

A handwritten signature in cursive script that reads "Milton J. Asolan". The signature is written in dark ink and is positioned above the typed name.

Acting Comptroller General
of the United States